

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION

KATHY HALL and CLIFFORD HALL,)
)
)
Plaintiffs,)
)
v.) Civil No 1:18-cv-00210
)
)
) (Formerly 76C01-1805-CT-000202
) Steuben Circuit Court)
)
MARK SOUDER,)
UNITED STATES POSTAL SERVICE,)
PITNEY BOWES, INC.,)
FRANK NESTER, and)
NESTER CONSTRUCTION,)
)
Defendants.)

NOTICE OF REMOVAL

The United States of America, through its counsel, Thomas L Kirsch II, United States Attorney for the Northern District of Indiana, and Deborah M. Leonard Assistant United States Attorney, respectfully show this Court:

1. On or about October 19, 2017, plaintiffs, Kathy Hall and Clifford Hall, filed a complaint against Mark Souder and Pitney Bowes, Inc. in the Dekalb Superior Court as Cause No. 17D01-1710-CT-00029. On or about May 1, 2018, the case was transferred to the Steuben Circuit Court and became Cause No. 76C01-1805-CT-202. On June 18, 2018, plaintiffs filed with the

Steuben Circuit Court an amended complaint, naming as a defendant the United States Postal Service and file a Second Amended Complaint naming Frank Nester and Nester Construction as defendants. The United States has not been served with either the Amended Complaint or the Second Amended Complaint in this matter. Copies of all process, pleadings, and orders are attached hereto (Group Exhibit A).

2. The United States of America may remove this case from the Steuben Circuit Court to the District Court for the Northern District of Indiana pursuant to 28 U.S.C. §§ 1442 and 2679 because it is an action against an agency of the United States and also involves issues founded on a claim or right arising under the laws of the United States, specifically the Federal Tort Claims Act, §§1346(b); 2671-2680 (1988) as amended by the Federal Employees Liability Reform and Tort Compensation Act of 1988, §5, Pub. L. No. 100-694, 102 Stat. 4563 (1988) (codified at 28 U.S.C. § 2679). Further, pursuant to 28 U.S.C. § 2679(b)(1), the only proper federal defendant for such a claim is the United States of America.

3. The notice of removal is timely filed pursuant to 28 U.S.C. § 1442 because it is an action against the United States Postal Service, an agency of the United States, and is being removed within 30 days of the filing of the Amended Complaint, naming the United States Postal Service as a defendant.

WHEREFORE, this action now pending in the Steuben Circuit Court as Cause No. 761C01-1805-CT-202 be removed to this Court, pursuant to Title 28, United States Code, Sections 1442, 1446, and 2679, and that the state court case be closed.

Respectfully submitted,

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UNITED STATES ATTORNEY

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CERTIFICATE OF SERVICE

I hereby certify that on July 6, 2018, the NOTICE OF REMOVAL was electronically filed with the Clerk of the Court using the CM/ECF system and a copy of the foregoing was served by United States Mail, postage prepaid to the following:

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